

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	) Fair Hearing No. H-02/09-79
	)
Appeal of	)

INTRODUCTION

The petitioner appeals a decision by the Office of Vermont Health Access (OVHA) denying her request for prior authorization under Medicaid for coverage of a panniculectomy. The issue is whether the petitioner meets the criteria for a panniculectomy under current regulations.

FINDINGS OF FACT

1. The petitioner is a forty-five-year-old woman who is a recipient of Medicaid.
2. The petitioner had a history of morbid obesity. In July 2004, she underwent gastric bypass surgery. To date, petitioner has lost over 170 pounds and has kept her weight under control.
3. In January 2009 her doctor submitted a request for prior approval of a panniculectomy, which is the surgical excision of superficial abdominal fat often left after gastric bypass surgery. It was clear in his request that he

had fully discussed the comparative risks and benefits of such surgery with the petitioner.

4. The doctor noted, *inter alia*, in his request that the petitioner's weight has been stable for over one year, that her "pannus overhang . . . completely covers her mons pubis", that she has a chronic rash that has not responded to treatment, and that she has "abdominal discomfort and pulling when she walks".

5. In a letter dated May 4, 2009, the surgical nurse who has worked with the petitioner reiterated the petitioner's problems with rashes and included the observation: "Her weight loss has created significant excess skin . . . which is causing her discomfort and difficulty with active exercising, activities of daily living and finding appropriate sized clothing."

6. At a telephone status conference held in the matter on May 7, 2009 the hearing advisor advised the Department that if it could not make a favorable decision based on the above evidence it should contact the petitioner's medical providers directly to define and attempt to resolve any issues regarding criteria for coverage. On May 22, 2009 the Department submitted a cursory written denial (dated May 11, 2009) referencing only a "lack of specifics" in the written

statements from the petitioner's medical providers. At a telephone status conference held on June 4, 2009 the Department represented that it had made no attempt to contact the petitioner's medical providers.

ORDER

OVHA's decision to deny prior authorization for a panniculectomy is reversed.

REASONS

OVHA has set out procedures to review prior authorization requests for surgery to ensure the appropriate use of resources. M106. Such applications are reviewed to determine whether the requested services are "medically necessary". M106.3.

Ordinarily, panniculectomies are not covered because they are considered cosmetic surgery. M615. However, there are circumstances in which OVHA will approve prior authorization requests. OVHA has developed the following criteria for prior authorization of panniculectomies:

- A. OVHA will approve all medically necessary panniculectomies by the PA process.
- B. Panniculectomies are medically necessary when:
  - a. The panniculus hangs below the level of the pubis **AND**

- b. Non-healing rashes, infections, or non-healing ulcers persist despite aggressive treatment for at least three months. **OR**
  - c. There is difficulty with ambulation and interference with ADLS.
  - d. If the patient had a significant weight loss, the individual must be at stable weight for over 9 months.
  - e. If the weight loss is as a result of bariatric surgery, the patient must be at least 18 months post-op.
- C. Documentation of the above conditions must be included with the PA request.

(Emphasis in the original.)

In this case, there does not appear to be any dispute that criterion B. a, d, and e., above, are met. Although there may have been some question as to whether "aggressive treatment" has been tried to treat the petitioner's persistent rashes (i.e., § B.b.), it appears that OVHA has simply ignored the medical evidence (see *supra*) that the petitioner's condition causes her difficulty with exercising and activities of daily living, and discomfort when she walks, which clearly meet the disjunctive criteria set forth in § B.c. Moreover, OVHA has failed to make any attempt to resolve any questions it might have had regarding any of the

above criteria (or to indicate that it feels such efforts on its part are unwarranted or unreasonable).

Based on the information she has submitted from her medical providers, there is no question that a preponderance of evidence in this case establishes that the petitioner meets the criteria for prior authorization for a panniculectomy. Therefore, OVHA's decision must be reversed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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